vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.785 OF 2005
IN
SUIT NO.1251 OF 2002

Messrs.Sangeeta Ramchand ... Plaintiff

V/s.

Mustan Abdul Hussain Tambawala ... Defendant

Mr.R.M. Nakhwa for Plaintiff
Mr.R.Dhameja for Defendant

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 24, 2006**

P.C.:

. The Plaintiff by this Motion has sought appointment of the Court Receiver in respect of the suit unit allotted to the defendant. The Plaintiff has also sought an injunction against the defendant from disposing off, alienating or creating any third party rights in respect of the suit unit. The plaintiff had agreed to sell to the defendant a unit in the building constructed by her. According to the defendant, it was agreed that a commercial unit would be allotted to him. A substantial part of the consideration has admittedly been paid by the Defendant to the Plaintiff. It is the defendant's case that the plaintiff has not completed the transaction and has in fact not obtained clearances under the Urban Land Ceiling Act. Furthermore, the defendant has contended that suits have been filed in the City Civil Court against the plaintiff by the proposed society of which the defendant is a member. The suit has been filed *inter alia* for conveying the property to the society.

2. In such circumstances, in my view, there is no need to grant any relief to the plaintiff. Furthermore, a statement has been made in para 11 of the plaint that the defendant was wrongfully in possession of the suit unit and has parted with the possession of the suit unit to a third party without taking prior permission from the plaintiff. Despite this averment, the third party has not been arrayed as a defendant in the suit. The judgment in the case of *Chief Administrator, Puda & Anr. v/s. Mrs.Shabnam Virk*, **2006(4) Mh.L.J. 1** has no application in the present case.

3. In my view, the plaintiff has not made out a case for granting any injunction in her favour. Notice of Motion dismissed.